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09/844,786	04/27/2001	Peter Bernhard Kaars	US018054 .	1689
24738	7590	07/25/2005	EXAMINER	
PHILIPS ELECTRONICS NORTH AMERICA CORPORATION INTELLECTUAL PROPERTY & STANDARDS 1109 MCKAY DRIVE, M/S-41SJ SAN JOSE, CA 95131			DURAN, ARTHUR D	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/844,786

Applicant(s)

KAARS, PETER BERNHARD

Examiner

Arthur Duran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Claims 1-10 and 13 have been examined.

#### ***Response to Amendment***

2. The Amendment filed on 5/25/05 is insufficient to overcome the Gerace and Levitan reference.

#### ***Claim Objections***

3. Claim 4 and 6 objected to because of the following informalities. Claim 4 refers to “in the portion”. However, the prior claims refer to “the updatable portion”. To be consistent, claim 4 should also read “in the updatable portion”. Appropriate correction is required.

Claim 6 states “the first content information of the second content information”.

Examiner will presume the claim was meant to read “the first content information or the second content information”. Appropriate correction is required.

Examiner will continue with examining claims 4 and 6 with the presumption that they were intended to be written as stated above. Appropriate correction of these claims if required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerace (5,848,396) in view of Levitan (5,864,823).

Claim 1, 5, 6, 7: Gerace discloses a method, apparatus, medium, software for enabling the display of an electronic program guide with an updatable portion comprising:

storage means for storing at least a first and a second content information (Fig. 2; Fig. 3a; col 5, lines 15-40; col 6, lines 20-35); and,

controlling means for causing a display of the second content information in the portion, for, thereafter, causing a display of the first content information in the portion, and, for, upon request, causing a display of the second content information in lieu of the first content information (col 11, lines 24-56; col 6, lines 22-40).

Gerace further discloses a method of enabling to display an electronic document with a portion whose content is changed, the method comprising enabling an end-user to request whether the first or second content is displayed (col 11, lines 24-56; col 6, lines 22-40). Gerace further discloses the user being able to display the content type displayed on a previous occasion (col 11, lines 24-56; col 6, lines 22-40). Note that stock or weather information can be displayed and automatically changed or updated. However, the user can also at any time change what is displayed to something new or to a display the content type of what was previously shown.

Gerace does not explicitly disclose that the duplicate content itself of a prior viewing can be brought up by the user.

However, Gerace further discloses that all user history including user actions and content itself viewed by a user can be recorded (Fig. 3a- Fig. 3g; col 6, line 57-col 7, line 24).

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Gerace further discloses user customization and requesting of information (col 11, lines 24-56; col 8, lines 17-25; col 7, lines 60-65).

Gerace further discloses that users can enter parameters to search for different available advertising to display and to request different types and format for content to display:

“(36) The "Messages" category of the Home Page 43 includes information relating to personals advertisements, classified advertisements and real estate advertisements. Upon user selection of this category, a search is initiated with user provided parameters. An appropriate Page Display Object 35c enables display of the results of the search using a "Personals Page", "Classifieds Page" and/or "Real Estate Page" format outlined in Appendix I. Briefly, included in a Personals Page/screen view is geographic, demographic and life style information. Preferably, sponsor provided advertisements are able to be inserted at the top of the screen view and at the end (i.e., after) a Personals Page screen view (col 9, lines 40-51);

(46) In addition, program 31 enables user customization of content and format of screen views for each category of information. That is, for each of the Home Page 43 and City Page categories (financial information, sports, weather, travel, telephone directory, personals and classifieds), the user is able to request structured data, preformatted data packages and/or value-added analyses from program 31. Thus if a user provides certain data and an indication of desired form of analyses (ranging from a numeric indication to a simple yes/no indication), program 31 provides prepared analytical views for the user selected data in the subject category. Alternatively, program 31 provides prepared profiles to assist users in selecting data. In response to a user providing a simple analytical statement/request, program 31 responds with data that fits that request. For example, if the user requests college stocks, program 31 suggests

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some. Also direct user selection of category items and display format is enabled through this feature” (col 11, lines 25-41).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Gerace’s user requesting information to Gerace’s recorded history of content viewed. One would have been motivated to do this in order to allow the user to view items of both current and prior interest.

Also, Gerace discloses displaying a program guide to the user:

“Examples are telephone listings, classified advertisements, weather reports, sports scores and statistics, market data, books and recordings in print, and television and film listings.

(3) Some types of agate require continual updating in the short term, like stock quotes, while other types have a longer life, like travel information and business directories. The newspaper industry is one of the primary suppliers of agate. Newspapers provide listings of stock quotes, television and radio programming, film schedules, and classified ads (col 1, lines 10-20);

(7) A variety of businesses are now offering information, some of it agate, on the Internet (col 1, lines 51-53);

In the preferred embodiment, the various categories of interest include stock trading portfolio, sports, news, weather, theater and television schedules, telephone directory, travel data, classified ads and personals information, and the like (col 6, lines 27-33);

(25) In the preferred embodiment, Page Display Object 35c provides outlines for a Home Page, Financial Pages (screen views), Sports Pages (screen views), Weather Pages (views), a Media Schedule Page, Directory Page, Travel Options Page, Classified Ads Pages,

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and Real Estate Pages (screen views) as specified in Appendix I. Each is discussed next with reference to FIGS. 4a-4b and Appendix I (col 7, lines 38-45);

(39) In the preferred embodiment, there is also a Media Schedule Object and respective screen view, accessible through the Home Page 43 of FIG. 4a. The format of the Media Schedule Page includes three tables of information--one table for television listings, one for film listings and one for live performance listings as illustrated in Appendix I. The television table lists for each program (show): the channel airing the program, start and end times, and other related information (e.g., rating, rerun, etc.) For each film, the film table lists, among other information, cinema where playing, show times, length in time, rating and indication of type of film. The live performance table includes symphony and theater performance schedules (show times) and place/theater (col 10, lines 8-22);

(130) Media (TV & Film) Schedules

(131) Users will be able to find television (network and local) and film schedules by zip code. Users will also have the capability to search for a specific show or film (to see where and when it is playing) or national network/satellite channel, or theater (to see what they are playing) (col 22, lines 43-49);

[Claim ] 2. Apparatus as claimed in claim 1 wherein the aggregate information provided by the data assembly includes at least one of stock and market data, theater and television schedules, sports statistics, weather information, travel information and Directory information (col 2, lines 54-58);

[Claim] 11. A method as claimed in claim 10 wherein the step of providing and

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supporting display of agate information includes providing and supporting display of at least one of stock data, media schedules, sports news, weather information, travel information, and directory information”(col 35, lines 54-59).

Also, note in the above citations that Gerace discloses that the electronic program guide can be content is displayed to the user. Also, note that Gerace discloses that content of one category can be displayed at the same time that content of another category is displayed (col 6, lines 35-40) and also that advertisement(s) can be displayed while content is displayed to the user:

“Page Data Objects 35b hold the agate or other data to be displayed to end users. Included are advertisements (objects themselves) which may be integrated into the agate data. Preferably advertisements are positioned along the periphery (i.e., above, below, left or right) of the agate data, as defined by a respective Page Display Object 35c. Accordingly, Page Data Objects 35b support Page Display Objects 35c which outline the possible screen content and presentation formats in which agate data advertisements are to be displayed” (col 7, lines 26-38).

Gerace further discloses the utilization of the Internet and devices connected to the Internet (col 3, lines 37-67; Fig. 1). Gerace further discloses the utilization of devices that can be utilized for the viewing of television (col 36, lines 54-60):

“[Claim] 17. Method as claimed in claim 16 wherein the step of transmitting and displaying includes displaying agate information in predefined schedules to coordinate with at least one of television and radio broadcast of events generating the agate information;



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[Claim] 18. Method as claimed in claim 16 wherein the step of displaying agate information further includes updating of the information, in real-time of the events generating the agate information, in a manner such that the agate information is viewable alongside television viewing of said events" (col 36, lines 48-60).

Gerace does not explicitly disclose a set top box.

However, Levitan discloses the presenting of a wide variety of content and advertising to a user and the utilization of television and the Internet (Abstract).

Levitan discloses that the apparatus connected to the Internet can comprise a set top box (col 2, lines 21-32).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Levitan's set top box to Gerace's devices for the Internet and television viewing. One would have been motivated to do this in order to provide the services of Gerace to a wide variety of devices.

Levitan further discloses that the set-top box can store content:

"(8) Connected to both a TV system and the Internet, recipient's computer, which is a PC or a computer built in a set-top cable box, facilitates home shopping via a system referred herein as virtual personal store (VPS) (col 2, lines 20-25);

(12) A presentation part of commercial-on-demand (COD) may be just a text like in yellow pages or classified section of a newspaper, or a picture with a text like in a catalog, or a video clip, i.e. a conventional TV commercial. It may also combine different forms of presentation. The most sophisticated form is applet--a computer program written in JAVA language. An applet can provide a dialog with recipient, an animation, a 3-dimensional

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picture. Recorded CODs are stored in appropriate departments of VPS where they can be viewed and from where the advertised products and services can be ordered” (col 7, lines 12-23).

Levitan further discloses that users can be provided commercials on demand, that user can be provided several advertisements, that different advertisements can be recorded or saved at the user device, and that users can be able to select which advertisement(s) to view (Claim 1, col 8, line 40-col 9, line 10).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Levitan’s user device for storing content and Levitan’s providing further user content/advertising selection to Gerace’s Internet device and content/television viewing and Gerace’s user customizable content categories and user selectable content/advertising. One would have been motivated to do this in order to expand Gerace’s programming viewing capabilities and expand Gerace’s user content selection capabilities.

Also, in regards to claim 6, notice that Levitan’s commercial-on-demand, as described in the above citation of Levitan’s Claim 1, discloses the display or redisplay of first or second advertising content.

Claim 2, 10: Gerace and Levitan discloses the method of Claim 1. Gerace further discloses that the first and second content information comprise advertisements (Fig. 2; Fig. 3a; col 2, lines 24-30).

Also, note that advertisements can lead to purchases (col 2, lines 35-42) and that the history of user advertisement interaction is recorded including which specific advertisements were presented or viewed (col 6, lines 57-col 7, line 24; col 2, lines 35-42).

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Furthermore, note that it would be obvious to one skilled in the art that the viewing control applied to agate information can also be applied to advertisement information (col 2, lines 24-30; col 7, lines 5-10). One would have been motivated to do this in order to allow the user to view advertisements that were of prior interest for attaining further information or for making purchases.

Claim 3, 8: Gerace and Levitan disclose the method of Claim 1. Gerace further discloses that the document comprises a selectable graphical user interface element that, upon selection, triggers display of the second content information or triggers the control command (col 6, lines 21-40; col 6, lines 57-col 7, line 4).

Gerace discloses that the first and second content information are selected by the individual (col 6, lines 21-40; col 6, lines 57-col 7, line 4).

Claim 4: Gerace and Levitan discloses the method of Claim 1.

Gerace further discloses causing the temporary display of the second content information in the portion (col 11, lines 25-56; col 6, lines 21-40). Note that Gerace's user can display content information of one type and then switch to a different set of content information or back to the prior content information at any time or for various viewing durations. In this case, the user is the cause of the temporary display of the content information.

Also, Gerace discloses that advertisements can be automatically, temporarily displayed for different time periods (col 12, lines 33-53).

Claim 9: Gerace and Levitan discloses the electronic document of Claim 7. Gerace discloses that the control command is received from a separate control device (col 6, lines 57-64).

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Gerace further discloses a variety of control devices:

“Upon user selection (using a click of a mouse or other input means) of a menu item, program 31 displays corresponding up-to-date information” (col 4, lines 5-10).

Also, Examiner notes that Levitan discloses that the separate control device can be remote:

“In WebTV system, recipient's input is provided via hand-held remote in a "point and click" manner (col 6, lines 3-6);

All existing TV sets, VCRs and channel selectors (cable boxes) have infrared interfaces for remote control in order to turn power on and off, switch channels, adjust volume, start and stop recording, rewind and play back a tape. The computer 28 can perform all those operations with the infrared output interface 38 thereby providing automatic control without any change to existing TV sets, VCRs and channel selectors” (col 6, lines 33-40).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Gerace's variety of control devices and separate control device can be a separate control device that is remote as disclosed by Levitan. One would have been motivated to do this in order to provide input device options that are convenient to the user.

Claim 13: Gerace and Levitan disclose the electronic document of Claim 7. Gerace further discloses that the document comprises a Web page and the portion is a Web frame (col 6, lines 30-40; col 2, lines 35-42; col 1, lines 29-45).

Levitan also discloses that the document comprises a Web page and the portion is a Web frame (Fig. 4; Fig. 5).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-10 and 13 have been considered but are not found persuasive.

Examiner further notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Also, Examiner notes that claims must be given their broadest reasonable construction. See *In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000). For example, in Applicant's claim 1 it is not specified whether the user or a central service is requesting to display content to the user. Also, claim 1 does not specify whether the first and second content is information content or advertising content. Also, Applicant's claim 1 makes no specification as to whether the second content is current content or a priorly displayed content. Hence, Applicant's claim 1 can be read in several ways.

Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to.

On page 6 of the Applicant's Amendment dated 5/25/05, Applicant states that "The cited prior art fails to teach or suggest an electronic program guide as now claimed".

Please also note that the additional citations added below have also been added to the rejection above of the independent claims.

Also, Gerace discloses displaying an electronic program guide to the user:

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“Examples are telephone listings, classified advertisements, weather reports, sports scores and statistics, market data, books and recordings in print, and television and film listings.

(3) Some types of agate require continual updating in the short term, like stock quotes, while other types have a longer life, like travel information and business directories. The newspaper industry is one of the primary suppliers of agate. Newspapers provide listings of stock quotes, television and radio programming, film schedules, and classified ads (col 1, lines 10-20);

(7) A variety of businesses are now offering information, some of it agate, on the Internet (col 1, lines 51-53);

In the preferred embodiment, the various categories of interest include stock trading portfolio, sports, news, weather, theater and television schedules, telephone directory, travel data, classified ads and personals information, and the like (col 6, lines 27-33);

(25) In the preferred embodiment, Page Display Object 35c provides outlines for a Home Page, Financial Pages (screen views), Sports Pages (screen views), Weather Pages (views), a Media Schedule Page, Directory Page, Travel Options Page, Classified Ads Pages, and Real Estate Pages (screen views) as specified in Appendix I. Each is discussed next with reference to FIGS. 4a-4b and Appendix I (col 7, lines 38-45);

(39) In the preferred embodiment, there is also a Media Schedule Object and respective screen view, accessible through the Home Page 43 of FIG. 4a. The format of the Media Schedule Page includes three tables of information--one table for television listings, one for film listings and one for live performance listings as illustrated in Appendix I. The television table lists for each program (show): the channel airing the program, start and end times, and

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other related information (e.g., rating, rerun, etc.) For each film, the film table lists, among other information, cinema where playing, show times, length in time, rating and indication of type of film. The live performance table includes symphony and theater performance schedules (show times) and place/theater (col 10, lines 8-22);

(130) Media (TV & Film) Schedules

(131) Users will be able to find television (network and local) and film schedules by zip code. Users will also have the capability to search for a specific show or film (to see where and when it is playing) or national network/satellite channel, or theater (to see what they are playing) (col 22, lines 43-49);

[Claim ] 2. Apparatus as claimed in claim 1 wherein the agate information provided by the data assembly includes at least one of stock and market data, theater and television schedules, sports statistics, weather information, travel information and Directory information (col 2, lines 54-58);

[Claim] 11. A method as claimed in claim 10 wherein the step of providing and supporting display of agate information includes providing and supporting display of at least one of stock data, media schedules, sports news, weather information, travel information, and directory information”(col 35, lines 54-59).

Also, note in the above citations that Gerace discloses that the electronic program guide can be content is displayed to the user. Also, note that Gerace discloses that content of one category can be displayed at the same time that content of another category is displayed (col 6, lines 35-40) and also that advertisement(s) can be displayed while content is displayed to the user:

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“Page Data Objects 35b hold the agate or other data to be displayed to end users. Included are advertisements (objects themselves) which may be integrated into the agate data. Preferably advertisements are positioned along the periphery (i.e., above, below, left or right) of the agate data, as defined by a respective Page Display Object 35c. Accordingly, Page Data Objects 35b support Page Display Objects 35c which outline the possible screen content and presentation formats in which agate data advertisements are to be displayed” (col 7, lines 26-38).

Also, additional citations and explanations have been added to the rejection above in response to the Applicant's amendment of the claims.

In conclusion, the combination of Gerace and Levitan renders obvious the features of the Applicant's claims.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



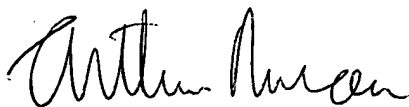
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Duran whose telephone number is (571) 272-6718. The examiner can normally be reached on Mon- Fri, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arthur Duran  
Patent Examiner  
7/11/05